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10/753,414	01/09/2004	Matthew J. Morin	4553-0102P	6378

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EXAMINER

WALTERS, JOHN DANIEL

ART UNIT	PAPER NUMBER
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3618

DATE MAILED: 07/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/753,414

Applicant(s)

MORIN, MATTHEW J.

Examiner

John D. Walters

Art Unit

3618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) 6 and 7 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 8-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 8/16/04 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 5/19/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

### **DETAILED ACTION**

Claims 1 – 5 and 8 – 13 have been examined. Claims 6 and 7 have been withdrawn by the applicant via an election of species restriction.

### ***Election/Restrictions***

This application contains claims directed to the following patentably distinct species of the claimed invention:

1. Figures 1A, 1B, 1C, 2A, 2B, and 2C show devices where a weight transfer device is actuated via pulley and cable systems
2. Figure 4 shows a device where a weight transfer device is actuated via an aircraft yoke or joystick type mechanism located on the central front portion of a seat.
3. Figures 5A, 5B, 6A, and 6B show devices where a weight transfer device is actuated via a set of handles located on opposing sides of a seat.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, none are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

During a telephone conversation with Carl Thompson on 15 July 2005 a provisional election was made with traverse to prosecute the invention of species 1, claims 1 – 5 and 8 - 13. Affirmation of this election must be made by applicant in replying to this Office action. Claims 6 and 7 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5 and 8-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schwarz (3,528,674) in view of Larsen et al. (4,324,409), and further in view of Snow Slider Walker from Freedom Factory (see <http://www.freedomfactory.com/slider.htm>). Schwarz discloses a ski sled comprising:

- two skis arranged side by side having the inward edges angled downward, at least while turning (Figs. 1 and 4);
- a seat supported by two legs, each being rotatably attached to a pivot point at a rear chair rail (Fig. 1, items 16 and 46);
- a weight transfer device (Fig. 1, item 48);
- chair rails (Fig. 3, item 18);
- foot pedals (Fig. 8, item 236) attached to the chair rails (via item 240);
- a linkage attachment pivotally attaching the weight transfer device to the seat (Fig. 1, item 50);
- an adjustable angle adjustment device (Fig. 1, item 32) connected to a foot pedal (Fig. 8, item 236);
- a bucket seat (Fig. 1, item 16).

In regards to claims 2 and 9, Schwarz is silent on the use of hand-based mechanisms to connect to and shift the weight transfer device. However, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to place the control mechanisms for the weight transfer device in position to be manipulated by either the hands or the feet, depending on the preferred riding style of the operator.

In regards to claim 4, Schwarz makes use of a solid connecting bracket to go from the foot pedals to the chair rails. However, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to use a cable in place of the solid bracket for purposes of lowered weight and ease of manufacture.

In regards to claim 13, Schwarz is silent on the use of a foldable seat. However, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to use a foldable seat in place of the bucket seat of Schwarz in order to facilitate storage of the vehicle.

Schwarz does not make use of ski bindings to attach the seat/weight transfer portion of the vehicle to the runners/skis, however, Larsen et al. discloses a sled body and adjustable attachment means comprising:

- adjustable blocks fitting into ski bindings on the skis (Fig. 1) comprising;
- a forward section with a toe piece and a rear hole (Fig. 1, items 60, 64, and 66);
- a rear section with a heel piece and a forward extension (Fig. 1, items 62, 76, and 36);
- with the forward section being inserted into the rear hole of the front section (Fig. 4);
- being provided with an adjuster mechanism for adjusting the block length (Fig. 4);

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to combine the ski sled of Schwarz with the binding attachment mechanism of Larsen et al. in order to allow the sled of Schwarz to be easily attached to standard ski

bindings. This would allow for a vehicle that could be disassembled and stored easily and compactly.

In regards to claim 1 and 8, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to connect the adjustable blocks of Larsen et al. to the angle adjustment devices of Schwarz in order to allow for a vehicle that was easily connectable to standard ski bindings and allows the skis to cant during maneuvering.

Schwarz in view of Larsen et al. discloses and shows a vehicle where the skis are parallel, however, Freedom Factory produces a Snow Slider Walker device comprising:

- an adjustable ski wedge setting of  $0^{\circ}$  –  $15^{\circ}$  inward (page 2 of 2).

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to combine the ski sled of Schwarz in view of Larsen et al. with the inward slanting skis of the Snow Slider Walker in order to provide the sled with a natural "snowplow" bias to slow the sled when no turning input is given.

In regards to claim 11, the combination of Schwarz in view of Larsen et al., further in view of Snow Slider Walker from Freedom Factory does not include multiple fixed blocks having different slopes for use in the angle adjustment device. However, the Snow Slider Walker from Freedom Factory includes a cant adjustment on the vehicle that provides for "infinite" adjustment of the cant of the ski. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to provide fixed blocks in a variety of slopes in the place of the "infinite" adjustment of the current device

if there were specific, defined angles that were needed often for specific riding patterns or environmental conditions.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Eisenschmid (3,799,564), Muir et al. (4,219,207), and Scheib (4,334,691) all disclose ski based sledding vehicles.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John D. Walters whose telephone number is (571) 272-8269. The examiner can normally be reached on Monday - Friday, 8am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Ellis can be reached on (571) 272-6914. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Application/Control Number: 10/753,414  
Art Unit: 3618

Page 8

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